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11 Attorneys for Plaintiff
12 COUPONS, INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 COUPONS, INC.,

12 Plaintiff,

13 vs.

14 JOHN STOTTMIRE, and DOES 1-10,

15 Defendants.

Case No. 5:07-CV-03457 HRL

**COUPONS' OPPOSITION TO
DEFENDANT'S MOTION TO EXTEND
TIME TO RESPOND TO THIRD
AMENDED COMPLAINT**

Judge: Honorable Howard R. Lloyd

16
17 Plaintiff Coupons, Inc. has attempted to be fair and flexible regarding Defendant John
18 Stottlemire's requests for extensions of time. We readily agreed to a 30-day extension to respond
19 to the Third Amended Complaint. Stottlemire's current request to extend the deadline by more
20 than four months, however, is unnecessary and unreasonable. Stottlemire can have his Rule 11
21 motion heard at the same time as his motion to dismiss. Coupons therefore opposes Stottlemire's
22 Motion to Extend Time to Respond to Coupons' Third Amended Complaint (the "Motion").

23 **I. ARGUMENT**

24 **A. Stottlemire Is Familiar With The Relevant Law And Procedure**

25 Stottlemire supports his alleged need for the additional 126 days by stating that he "is a
26 pro se litigant and needs more time to understand the law to prepare an effective motion for
27 sanctions pursuant to Rule 11 and a responsive pleading to the Third Amended Complaint.
28 (Motion at p. 1.) But Stottlemire already knows the law on Rule 11 motions. On October 15,

1 2007, Stottlemire filed a Rule 11 motion against the attorneys who previously represented
2 Coupons in this case. Stottlemire's motion was denied. Stottlemire presumably also knows the
3 factual basis for his Rule 11 motion, because he has already talked to Coupons' counsel about it.
4 He therefore needs no more time to prepare it.

5 In addition, this will be Stottlemire's *third* motion to dismiss. The parties, and
6 Stottlemire's *amicus*, have thoroughly explored twice already the very limited body of cases
7 discussing the DMCA. There is no longer any basis for his claim that he needs an extraordinary
8 extension of time "to understand the law and prepare an effective Motion [or responsive
9 pleading].

10 **B. Stottlemire's Additional Extension Should Be Denied So The Parties Can**
11 **Properly Reach The Merits Of The Case**

12 Stottlemire's Rule 11 motion appears to be yet another premature attempt to try the case
13 on the pleadings, before there are any facts before the court. Stottlemire will apparently attempt
14 to demonstrate that Coupons' Third Amended Complaint "contains factual contentions which
15 have no evidentiary support. (Motion at p. 1.) Stottlemire is entitled to test Coupons'
16 evidentiary support, but after discovery and at trial.

17 **C. The Additional Extension Is Unnecessary**

18 No reason exists why Stottlemire's Rule 11 motion cannot be filed and heard at the same
19 time as his motion to dismiss. With the 30-day extension already agreed to, Stottlemire has until
20 September 4 to file his motions. Stottlemire's concern that his efforts to draft a responsive
21 pleading would be for naught if Coupons were to correct or withdraw its Third Amended
22 Complaint during the 21 days after service of a Rule 11 motion is unfounded. Stottlemire already
23 expressed his concern to Coupons' counsel regarding paragraph 15 of the Third Amended
24 Complaint, and Coupons has informed Stottlemire of its confidence in the allegation and its intent
25 to stand on its Third Amended Complaint as filed. *See* Declaration of Dennis M. Cusack In
26 Support of Coupons' Opposition to Defendant's Motion to Extend Time to Respond to Third
27 Amended Complaint, ¶ 5.

Coupons also stipulates that it will agree to a shorter waiting period than 21 days for Stottlemire to file his motion (*see* FRCP 11(c)(2)(allowing court to set a different time than 21 days)). He therefore has sufficient time to draft and serve both motions by the current deadline.

II. CONCLUSION

Any additional extension for Stottlemire to respond to the Third Amended Complaint is unnecessary and would allow Stottlemire to unduly delay the progress of this case. Coupons respectfully requests that the Court deny Stottlemire's Motion to Extend Time to Respond to the Third Amended Complaint.

Dated: July 31, 2008

FARELLA BRAUN & MARTEL LLP

By: /s/
Dennis M. Cusack

**Attorneys for Plaintiff
COUPONS, INC.**

1 **PROOF OF SERVICE**

2 I, the undersigned, declare that I am a resident of the State of California, employed in the
3 County of San Francisco, over the age of eighteen years and not a party to the within action. My
4 business address is: Farella Braun + Martel LLP, 235 Montgomery Street, 17th Floor, San
Francisco, California 94104.

5 On this date I served the within document(s):

6 **COUPONS' OPPOSITION TO DEFENDANT'S MOTION TO EXTEND TIME TO**
7 **RESPOND TO THIRD AMENDED COMPLAINT**

8 **X** **BY ELECTRONIC FILING:** the within document(s), the automatically generated
notification for which constitutes service pursuant to General Order 45, Section IX(A) and (B).

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11 Fremont, CA 94555
12 Telephone: 614-358-4185
E-mail: jstottl@comcast.net
Defendant – *Pro Se*

13 I declare that I am employed in the office of a member of the bar of this court at whose
14 direction the service was made.

15 I declare under penalty of perjury under the laws of the State of California that the above
16 is true and correct. Executed in San Francisco, California on **July 31, 2008**.

17
18 /s/
Lawrence L. Coles